



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-17-00030-CR

AMOURI LAVELLE NICHOLSON A/K/A CHRIS TERRY TUCKER, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the Criminal District Court No. 1
Tarrant County, Texas
Trial Court No. 1441681D, Honorable Elizabeth Beach, Presiding

June 6, 2017

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

Amouri Lavelle Nicholson a/k/a Chris Terry Tucker, appellant, appealed his conviction for unlawfully possessing a firearm. His sole issue involves the trial court's denial of his motion to suppress evidence. Allegedly, "the trial court erred in its ruling denying his Motion to Suppress Illegally Obtained Evidence . . . [because] he was

unlawfully detained when officers approached his vehicle without a warrant[.]” We overrule the issue and affirm the judgment.¹

According to the record, several Arlington police officers were dispatched to a particular home address to investigate suspected drug activity. They arrived at the scene, saw a vehicle parked in a neighbor’s driveway, approached it, noticed people inside, and tapped on the passenger window. Appellant and a female sat in the driver’s and passenger’s seats, respectively. The female opened the passenger door, at which point one of the officers smelled burnt marijuana.

An officer testified at the suppression hearing to the following: “[t]he vehicle was parked where the backend of the vehicle was hanging out in the street, and it was obstructing the sidewalk.” Another officer testified that “[i]t was a violation, a parking violation,” when asked if the manner in which the car was parked was “unusual in any way.” Furthermore, a picture of the car depicted the vehicle’s back third to rest completely over the sidewalk, while the remainder rested in the driveway.

The City of Arlington has an ordinance barring persons from willfully obstructing a public sidewalk. *Jones v. State*, No. 02-06-00024-CR, 2007 Tex. App. LEXIS 3361, at *5-6 (Tex. App.—Fort Worth Apr. 26, 2007 pet. ref’d) (mem. op., not designated for publication), quoting ARLINGTON, TEX CODE, Streets and Sidewalks, § 6.01 (2005). And, as stated in *Jones*, “[t]he ordinance’s plain language indicates that by obstructing the sidewalk, Appellant provided a basis for [the officer] to investigate whether such obstruction was willful, as long as Appellant was not parked in compliance with city

¹ Because this appeal was transferred from the Second Court of Appeals, we are obligated to apply its precedent when available in the event of a conflict between the precedents of that court and this court. See TEX. R. APP. P. 41.3.

ordinances.” *Id.* at *12-13. No less was or is true here. At the very least, the officer’s had reasonable suspicion to believe a parking violation was occurring and, thereby, approach the vehicle and contact its occupants to investigate it.

That the trial court may have denied the motion to suppress because it viewed the encounter as consensual is of no import. We are “obligated to uphold the trial court’s ruling on appellant’s motion to suppress if that ruling was supported by the record and was correct under any theory of law applicable to the case.” *Armendariz v. State*, 123 S.W.3d 401, 404 (Tex. Crim. App. 2003); *accord*, *Williams v. State*, ___ S.W.3d ___, 2016 Tex. App. LEXIS 13612, at *21 (Tex. App.—Fort Worth Dec. 22, 2016, no pet.) (stating the same). The trial court’s decision can be affirmed based upon at least one legal theory supported by the record.

Accordingly, we affirm the judgment of the trial court.

Brian Quinn
Chief Justice

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